IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4063 OF 1997

Smt Trupti Pravin Manchalwar
nee Mangala Prabhakar Nage.... Petitioner

versus

The President/Secretary
Aryan Education Society & ors..... Respondent.

Shri P.R.Arjunwadkar for the petitioner
Shri S.K.Chincholikar AGP for the Respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 18TH JUNE, 2007

P.C.;

1. The petitioner was appointed as special teacher/Asstt. teacher in the school administered by the respondent with effect from 1-12-1993. The petitioner belongs to Scheduled Caste category of the backward class. By an order dated 31-3-1994 the petitioner was terminated from service. The petitioner did not challenge the order of termination dated 31-3-1994 immediately. However, the same was challenged by filing an appeal before the School Tribunal on 26-2-1996. School Tribunal allowed the appeal by its judgment and order dated 10-7-1996 i.e. within a period of 4/5 months. The tribunal granted reinstatement to the petitioner. However denied the backwages. The petitioner is aggrieved by the order

passed by the tribunal denying backwages. The petitioner is also aggrieved by the direction issued by the tribunal that the petitioner shall be deemed to be on probation from the date of termination. The learned advocate for the petitioner submits that the petitioner needs to be treated as on probation from the date of initial appointment.

2. So far as the grievance of the petitioner in relation to backwages is concerned, it is relevant to note that the petitioner was terminated from service with effect from 31-3-1994 and the appeal came to be filed on 26-2-1996 i.e. almost after a period of two years. The petitioner cannot claim backwages for the period for which the petitioner is guilty of latches in approaching the appropriate forum. The petitioner cannot claim premium for his own latches. The appeal was pending hardly for a period of four months and the reasons assigned by the tribunal to deny the backwages, are that the petitioner did not approach the tribunal with clean hands and that the petitioner was gainfully employed at two places. The fact of gainful employment was suppressed. hence the tribunal is justified in denying the backwages, though the period is very short. So far as the petitioner's prayer to treat her as having been appointed on probation from the initial date of appointment is

justified. Thus for that relief, the petitioner is entitled to. In the result the writ petition is partly allowed. The petition to the extent of challenging the order passed by the tribunal denying the backwages is concerned, the same is dismissed. However, it is declared that the petitioner shall be deemed to have been appointed on probation from the initial date of her appointment i.e. 1-12-1993. The learned counsel for the petitioner seeks liberty to approach the appropriate authority in the education department for correcting pay fixation. Liberty is granted as prayed for. Petition is disposed of. Rule made absolute in the above terms.